

THE CITY OF CLAYTON

Board of Aldermen Meeting
Council Chambers - 10 N. Bemiston Avenue
July 26, 2011
7:00 p.m.

Minutes

Mayor Goldstein called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Steve Lichtenfeld, Judy Goodman, Michelle Harris, Andrea Maddox-Dallas, Cynthia Garnholz, and Mark Winings

Mayor Goldstein
City Manager Owens
City Attorney O'Keefe

Mayor Goldstein asked for any questions or comments relating to the July 12, 2011 minutes, which were previously provided to the Board.

Alderman Harris moved to approve the July 12, 2011 minutes. Alderman Goodman seconded the motion.

The motion passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

Mr. Brad Beracha, owner of Araka and Miso Restaurants, member of the Clayton Restaurant Association, addressed the Board with comments regarding food trucks. He said that there is a popularity of food trucks in St. Louis (City) and commented that food trucks are more successful in areas that have fewer restaurants. He is here on behalf of the Association to stress opposition in allowing food trucks in Clayton.

Mayor Goldstein thanked Mr. Beracha for his comments and expressed her appreciation for his investments into the business community.

Mayor Goldstein announced a change in the agenda.

MOTION TO APPROVE A LIQUOR LICENSE TO SELL ALL KINDS OF INTOXICATING LIQUOR AT RETAIL BY THE DRINK, INCLUDING SUNDAYS FOR CENTRAL AVENUE RESTAURANT CORPORATION, 15 N CENTRAL AVENUE

City Manager Owens reported that Central Avenue Restaurant Corporation is requesting a liquor license to sell all kinds of intoxicating liquor at retail by the drink, including Sundays, at 15 N. Central Avenue under the name of Tucci and Fresta's Trattoria & Bar.

The Police Department has completed its review of the application and supports the issuance of the requested license.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote

of five Board members in order to be approved. Staff has requested that a representative be in attendance at the meeting.

Staff recommends passing a motion to approve the liquor license to sell all kinds of intoxicating liquor at retail by the drink, including on Sundays.

Alderman Lichtenfeld moved to grant a liquor license to Central Avenue Restaurant Corporation for a restaurant located at 15 N. Central Avenue. Alderman Goodman seconded.

Mr. Kim Tucci, owner, addressed the Board noting that his partner, Mr. Joe Fresta's name was misspelled on the agenda. Mr. Tucci said that they are planning on opening the restaurant by September 1st. He commented that he has been in the restaurant business for 50 years and that he has partnered with Mr. Fresta for about 38 years with the Pasta House Company. He stated that the new restaurant is not comparable to the Pasta House because it will be a more upscale Italian restaurant. He said that they are planning for outdoor dining, but not at this time because they are concentrating more on the inside renovations.

Alderman Goodman stated that the location of the restaurant, formerly Portabella's is a historic landmark in the Clayton community.

FY2011 NINE-MONTH FINANCIAL REPORT

City Manager Owens gave a brief summary on the City's Nine-Month Financial report that was previously provided to the Board for their review.

Mayor Goldstein reported that there has been some conversation at the St. Louis County level regarding changing the practice of the shared municipal sales tax. Both she and the City Manager are attending meetings at St. Louis County and they will keep the Board up-to-date on the conversations.

ORDINANCE PROHIBITING THE SALE OR USE OF FIREWORKS

City Manager Owens reported that prohibition of fireworks in Clayton had always been covered under the Fire Prevention Code. However, the Police Department has requested a more defined ordinance regulating the sale or use of fireworks in the City of Clayton. The ordinance presented for adoption, allows for public pyrotechnical displays by permit issued by the Fire Department. Recommendation is to adopt the ordinance.

Alderman Lichtenfeld introduced Bill No. 6270 an ordinance to regulate and generally prohibit the discharge of fireworks in the City of Clayton to be read for the first time by title only. Alderman Goodman seconded.

In response to Alderman Garnholz's question, City Manager Owens stated that the ordinance will add a section to the Code.

City Attorney O'Keefe added that the fireworks prohibition is currently in the Fire Code and that the Fire Prevention Code is referenced, but is not available online. He said that adding the new section to the code will make it readily available online to the citizens and the Police Department.

City Attorney O'Keefe reads Bill No. 6270 an ordinance to regulate and generally prohibit the discharge of fireworks in the City of Clayton for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Lichtenfeld introduced Bill No. 6270 an ordinance to regulate and generally prohibit the discharge of fireworks in the City of Clayton to be read for the second time by title only. Alderman Goodman seconded.

City Attorney O'Keefe reads Bill No. 6270 for the second time. Alderman Lichtenfeld – Aye; Alderman Goodman – Aye; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6153 of the City of Clayton.

A RESOLUTION READOPTING PROCEDURES TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST

City Manager Owens reported that in 1991, the Missouri General Assembly adopted the ethics/personal financial disclosure law, which affects municipalities with an annual operating budget in excess of \$1 million. The ethics legislation allowed political subdivisions to establish their own method of disclosing potential conflicts of interest and substantial interests. Accordingly, pursuant to Section 105.485 of the Missouri Revised Statutes, on August 13, 1991, the City adopted by ordinance its own simplified personal financial disclosure requirements.

According to Section 105.485.4, RSMo., the Missouri Ethics Commission requires each affected municipality to readopt the personal financial disclosure ordinance in an open meeting biennially by September 15th.

Recommendation is to approve the resolution readopting the City of Clayton's procedure to disclose potential conflicts of interest and substantial interests for certain municipal officials.

Alderman Lichtenfeld moved to approve Resolution No. 11-25, readopting and reaffirming the city's method of disclosing potential conflicts of interest and substantial interests. Alderman Goodman seconded.

The motion passed unanimously on a voice vote.

RESOLUTION APPROVING A MODIFICATION TO THE CONTRACT WITH PARIC CORPORATION FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE CONVERSION OF 10 SOUTH BRENTWOOD BOULEVARD INTO A MUNICIPAL AND POLICE FACILITY

City Manager Owens reported that on January 26, 2010, Resolution 10-03 approved a contract with Paric Corporation for Construction Management (CM) Services for the conversion of 10 South Brentwood into a municipal and police facility; in the amount of \$488,710, plus a contingency of \$73,310. At that time, the estimate for the conversion was \$8.5 million.

Paric's CM contract allows for additional compensation if the Preconstruction Phase exceeds ten (10) months and the Construction Phase exceeds twelve (12) months. The Preconstruction phase began in January 2010 and is scheduled to be completed in August 2011. The Construction Phase began this month, with the award of a demolition and abatement contract, and is expected to be completed in December 2012. The current construction cost estimate, approved in April 2011, is \$12.6 million including additional energy grant work and expansion of the tenant areas that also produced offsetting income.

This modification provides for an equitable adjustment of fees and converts staff and reimbursable rates to lump sums, to limit the City's total exposure. In addition, this modification adds the scope and fee associated with compliance with our two energy grants, which were awarded to the City after Paric's CM contract was in place.

Recommendation is to approve this resolution authorizing a modification to the contract with Paric Corporation which revises the total compensation to an amount of \$686,634, and establishes a reserved contingency of \$102,995, for construction management services for the conversion of 10 South Brentwood Boulevard into a municipal and police facility.

Alderman Lichtenfeld moved to approve Resolution No. 11-26, approving a modification to the contract with Paric Corporation for construction management services for the conversion of 10 South Brentwood Boulevard into a municipal and police facility. Alderman Goodman seconded.

Mayor Goldstein noted that earlier today staff provided additional information to the Board on the data of the preconstruction and construction duration versus the fees. She said that the preconstruction duration has increased by 90% and the fee has increased by 49%; the construction duration is increasing by 58% and the fee has increased by 35%. She thinks that this is a reasonable request in terms of the fees.

In response to Alderman Lichtenfeld's question, Todd Sweeney, Paric Corporation, stated that all of the costs are associated with the change order. Mike Pratt stated that the grant for \$21,000 was not included in the original contract and that they did not have an opportunity at the time to include administrative costs. He said that they get periodic visits from a grant administrator and he has been told that all of the grant recipients may not be able to spend their entire allotment and if this is the case, then they can go back and claim any additional costs to the project. He said that it is their intent to go back and claim those additional costs and he has requested that Paric Corporation and the Lawrence Group structure the contract in such a way so that they can identify all the additional costs that might be associated with the grant. The current grant does not allow for reimbursement of the \$21,000 for the construction management services, but it is their intent to capture those costs along with others.

The motion passed unanimously on a voice vote.

A MOTION SETTING THE PUBLIC HEARING FOR CONSIDERATION OF THE PROPOSED PROPERTY TAX LEVIES FOR TAX YEAR 2011 (FY 2012) AND THE FY 2012 OPERATING AND CAPITAL IMPROVEMENT BUDGET

City Manager Owens reported that on July 8, under separate cover, the Board of Aldermen received the City Manager's proposed Fiscal Year 2012 Operating and Capital Improvement Budget, including the recommended property tax levies for tax year 2011 (FY 2012) for both the Citywide property tax levy and Special Business District. As part of the budget process, the Board is required to hold a public hearing to seek public input prior to formal adoption.

Staff is recommending that a public hearing be scheduled for August 23, 2011, at 7:00 p.m. immediately followed by a first reading of the required ordinances. A second reading of the ordinances will be scheduled for the September 13, 2011 Board meeting.

Recommendation is to approve a motion scheduling a public hearing on August 23, 2011 at 7:00 p.m. to receive public comment on the proposed Tax Year 2011(FY 2012) property tax levies and the proposed Fiscal Year 2012 Operating and Capital Improvement Budget.

Alderman Lichtenfeld moved to set the date of August 23, 2011 to hold a public hearing on the proposed FY2012 Budget and the proposed property tax levies for tax year 2011. Alderman Goodman seconded.

The motion passed unanimously on a voice vote.

Other

None

There being no further regular business, Alderman Winings moved that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15). Alderman Harris seconded the motion. The motion passed unanimously on a roll call vote cast as follows: Alderman Lichtenfeld – Aye; Alderman Goodman – Aye; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; and Mayor Goldstein – Aye.

The motion passed unanimously on a voice vote.

The meeting adjourned at 7:30 p.m.

Mayor

ATTEST:

City Clerk